

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20381
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On May 8, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable years 2003 and 2004 in the total amount of \$28,445.

On July 10, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but did provide some additional documentation for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayers should have filed Idaho income tax returns for the tax years 2003 and 2004. The Bureau searched the Tax Commission's records and found that the taxpayers made estimated payments for those years but failed to file income tax returns. The Bureau sent the taxpayers a letter asking them about their requirement to file Idaho income tax returns. The taxpayers did not respond. [Redacted]

The Bureau prepared income tax returns for the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination stating that the Bureau only accounted for one side of their stocks and futures trades. The taxpayers also stated that the Bureau did not allow them the correct number of exemptions or any business expenses

against their business income. The taxpayers provided some backup documentation to support some of their stocks and futures transactions but failed to provide any other information or income tax returns. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond. The Tax Commission sent a follow-up letter to the taxpayers, and they responded with more information on their stocks and futures trades for 2003 and 2004. The Tax Commission sent the taxpayers another letter asking for completed income tax returns, but the taxpayers failed to respond. Therefore, the Tax Commission decided this matter based upon the information available.

The Idaho Department of Labor reported that [Redacted] earned wages in Idaho in excess of the filing requirements of Idaho Code section 63-3030 in 2003 and 2004. When the Bureau researched the Tax Commission's records, it found that the taxpayers stopped filing Idaho income tax returns after filing their 2002 Idaho individual income tax return. The Bureau also found that the taxpayers made estimated tax payments for both 2003 and 2004. [Redacted]. All this information clearly showed the taxpayers had a requirement to file Idaho income tax returns.

[Redacted]. In the taxpayers' protest letter, they argued that the Bureau only accounted for one side of the sales transaction, the income side. The taxpayers stated there were also expenses associated with each sale, namely, the cost of the stock and commissions. The taxpayers provided partial printouts of their stock and futures transactions. The printouts identified the purchase and sales prices of the stocks and futures contracts. For 2003, the printout total equaled the amount reported on the Form 1099 that was reported to the IRS. For 2004, the printouts were less decipherable and did not equal the Form 1099 reported to the IRS.

In Idaho, it is established that a State Tax Commission deficiency determination is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). In providing the stock and futures printouts, the taxpayers showed that the Bureau only reported one side of the transaction. The Tax Commission recognizes that security transactions have both purchase and sale components and both are needed to determine the gain or loss on the transaction. Even though the information the taxpayers provided was incomplete, the Tax Commission found enough information to determine that the Bureau's returns should be adjusted. Therefore, the Tax Commission hereby modifies the returns prepared by the Bureau to include the decipherable information contained in the taxpayers' printouts.

The taxpayers also argued that the Bureau did not allow them the proper number of exemptions or any of their business expenses. However, the taxpayers did not provide anything to substantiate they were entitled to additional exemptions or business expenses. The Bureau and the Tax Commission asked the taxpayers to submit income tax returns, yet they failed to provide any.

Deductions are a matter of legislative grace, and the taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayers have not shown they are entitled to additional exemptions or that they incurred deductible business expenses, the Tax Commission is not obliged to make an

allowance for them. Therefore, the Tax Commission upholds the Bureau's determination in this regard.

The Bureau added interest and penalty to the taxpayers' tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated May 8, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEARS</u>	<u>TAX</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>
2003	\$3,551	\$888	\$941	\$5,380
2004	361	90	74	<u>525</u>
			TOTAL DUE	<u>\$5,905</u>

Interest is computed to June 15, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
